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FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2019 SEP -9 PM 1:16
STEPHAN HARRIS, CLERK
CHEYENNE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,

Plaintiff,

v.

VERNON BLACK,

Defendant.

Case No. 19cv188-J

COMPLAINT AND APPLICATION FOR INJUNCTIVE RELIEF

The United States of America, by and through the United States Attorney for the District of Wyoming and its Assistant United States Attorneys, Levi Martin and Jeremy A. Gross, brings this civil action for the recovery of civil monetary penalties and for injunctive relief against Defendant Vernon Black for violations of the Packers and Stockyards Act of 1921, as amended and supplemented, 7 U.S.C. §§ 181 *et seq.* ("P&SA" or "Act"). The United States alleges as follows:

PARTIES

1. Plaintiff is the United States of America.

2. Defendant Vernon Black is an individual with an address of 11677 U.S. Hwy 26, Riverton, WY 82501. Defendant is engaged in business as a “market agency” and “dealer” under the Act. *See* 7 U.S.C. § 201.

JURISDICTION AND VENUE

3. Jurisdiction for this action is conferred on this Court by Sections 312, 314, & 315 of the P&SA (7 U.S.C. §§ 213, 215, & 216) and 28 U.S.C. §§ 1345 and 1355. In addition, Section 404 of the P&SA empowers the Attorney General of the United States to initiate appropriate proceedings under the Act to be commenced and prosecuted in the proper courts of the United States. *See* 7 U.S.C. § 224.

4. Venue is proper in the District of Wyoming under 28 U.S.C. § 1391(b) & 7 U.S.C. § 216, as Defendant resides in this District and a substantial part of the events giving rise to the claim occurred in this District.

FACTS COMMON TO ALL CLAIMS

5. The P&SA regulates the conduct of packers, swine dealers, live poultry dealers, stockyard owners, market agencies, and dealers, imposing certain affirmative requirements on these entities and proscribing certain conduct by them. *See* 7 U.S.C. §§ 181 *et seq.*

6. Not later than 2009, the Defendant began operating as a market agency by receiving commissions for purchasing cattle on behalf of a company.

7. Persons operating as a market agency are required to register with the Secretary and file and maintain a bond or bond equivalent in an amount set by 7 C.F.R. § 201.30. *See* 7 U.S.C. §§ 203 & 204. The Defendant has repeatedly failed to comply with these requirements of the Act.

8. In a Decision and Order of the Secretary for the United States Department of Agriculture (“Secretary’s Order”), dated December 31, 2012, the Defendant was found to have willfully violated 7 U.S.C. § 213(a) of the P&SA by engaging in operations subject to the Act without registering with the Secretary and without obtaining or maintaining an adequate bond or bond equivalent. *See In re: Vernon Black*, P&S Docket No. D-11-0139. (Exhibit 1).

9. The Secretary’s Order mandated the Defendant to “cease and desist from engaging in business in any capacity for which bonding is required without obtaining, filing, and maintaining an adequate bond . . . [and] without first becoming properly registered[.]” The Defendant was also assessed a civil penalty in the amount of four thousand dollars (\$4,000.00).

10. Defendant has not paid the civil penalty, nor has he ceased his unlawful behavior. Indeed, the Defendant knowingly and unlawfully continued to engage in the business of buying livestock in commerce and receiving commissions without registering with the Secretary and without maintaining an adequate bond or bond equivalent.

11. Specifically, during the period of December 2, 2014 through November 13, 2015, Defendant engaged in 33 different transactions wherein he operated as a market agency, by purchasing 2,680 head of livestock with a market value of \$2,981,535.00.

12. More recently (between November 16, 2018 and June 13, 2019), Defendant engaged in eight transactions wherein he operated as a market agency, and twelve other transactions wherein he operated as a dealer. (A dealer is also required to register and maintain bonding; *see* 7 U.S.C. § 203 & 7 U.S.C. § 204). The total market value for these transactions was \$87,860.31. The Defendant, in violation of the Secretary’s Order, the Act, and the regulations, has still not registered with the Secretary, nor has he obtained an adequate bond or bond equivalent.

13. On information and belief, the Defendant will further continue to operate as a dealer and/or market agency in violation of the Secretary's Order, the Act, and the regulations promulgated thereunder, unless he is enjoined from doing so.

COUNT I (Violation of 7 U.S.C. § 203)

14. The United States incorporates Paragraphs 1 through 13 of this Complaint, as if fully set forth herein.

15. Defendant has repeatedly violated the P&SA by failing to register with the Secretary, as required by 7 U.S.C. § 203 and section 201.10 of the Regulations (9 C.F.R. § 201.10).

COUNT II (Violation of 7 U.S.C. § 204)

16. The United States incorporates Paragraphs 1 through 15 of this Complaint, as if fully set forth herein.

17. Defendant has repeatedly violated the P&SA by failing to post a bond, as required by 7 U.S.C. § 204 and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

COUNT III (Violation of 7 U.S.C. § 213(a))

18. The United States incorporates Paragraphs 1 through 17 of this Complaint, as if fully set forth herein.

19. Defendant has repeatedly violated the Secretary's Order by engaging in or using unfair, unjustly discriminatory, or deceptive practices in connection with the buying, or selling on a commission basis, of livestock, and by failing to pay the civil penalty.

WHEREFORE, the United States of America respectfully prays that this Court:

A. Issue an order declaring that Defendant, in acting as a market agency, was subject to the Act and has repeatedly violated the Act and the regulations promulgated thereunder;

B. Issue an order declaring that Defendant, in acting as a dealer, was subject to the Act and has repeatedly violated the Act and the regulations promulgated thereunder;

C. Issue an order declaring that Defendant has repeatedly violated the Secretary's Order;

D. Order monetary penalties to be paid to the United States for each and every violation of 7 U.S.C. § 203 and its promulgating regulations (plus any interest from the date of judgment), in an amount to be proved at trial;

E. Order monetary forfeiture to the United States for each and every violation of 7 U.S.C. § 215(a) and its promulgating regulations (plus any interest from the date of judgment), in an amount to be proved at trial;

F. Order Defendant to pay the \$4,000 civil penalty that was assessed against him in the Secretary's Order (7 U.S.C. § 213(b));

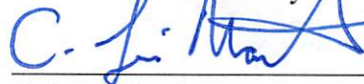
G. Order Defendant permanently enjoined from engaging in business as a dealer or market agency within the meaning of the Act without being registered with the Secretary, and bonded, as required by the Act and the regulations promulgated thereunder (7 U.S.C. § 216);

H. Order Defendant pay the costs of this proceeding; and

I. Provide the United States with any further relief the Court deems just and proper.

Respectfully submitted this 9th day of September, 2019.

Mark A. Klaassen
United States Attorney



C. Levi Martin
Jeremy A. Gross
Assistant United States Attorneys

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

RECEIVED

SEP 09 2019

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
U.S. Attorneys Office
2120 Capitol Ave, Suite 4000
Cheyenne, WY 82001 307-772-2124

DEFENDANTS

Vernon Black
11677 U.S. Hwy 26
Riverton, WY 82501

County of Residence of First Listed Defendant Fremont

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

7 U.S.C. §§ 181 et seq.

Brief description of cause:

Mr. Black is continuing to operate as a market agency and dealer without being registered with USDA or bonded.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

TBD at trial

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
09/09/2019

SIGNATURE OF ATTORNEY OF RECORD

C. F. [Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

Johnson

MAG. JUDGE

Rankin

(1 issued)

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